

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

TIMOTHY MARVIN FRICKS,	:	
	:	
Plaintiff	:	
	:	
VS.	:	NO. 5:10-CV-258 (CAR)
	:	
Warden STEVE UPTON, <i>et al.</i> ,	:	<u>RECOMMENDATION</u>
	:	
Defendants	:	

Plaintiff **TIMOTHY MARVIN FRICKS**, an inmate at Georgia Diagnostic and Classification Prison (“GD&CP”), has filed a motion for a preliminary injunction against officials at GD&CP and at Autry State Prison (“ASP”) where he was previously incarcerated. In his motion, he asks this Court to direct the GD&CP defendants to release plaintiff into the general population and to “quit harassing [him] without a just cause.” Plaintiff asks that the ASP defendants be restrained from “being around” plaintiff.

A preliminary injunction is appropriate where the movant demonstrates that: (a) there is a substantial likelihood of success on the merits; (b) the preliminary injunction is necessary to prevent irreparable injury; (c) the threatened injury outweighs the harm that a preliminary injunction would cause to the non-movant; and (d) the preliminary injunction would not be averse to the public interest. *Parker v. State Bd. of Pardons & Paroles*, 275 F.3d 1032, 1034-35 (11th Cir. 2001).

Plaintiff’s claims for injunctive relief against officials at ASP are now moot because plaintiff is no longer incarcerated at ASP. *See Zatler v. Wainwright*, 802 F.2d 397, 399 (11th Cir. 1986).

With respect to the GD&CP defendants, at this juncture, the facts have not been sufficiently developed to determine that there is a substantial likelihood that plaintiff will ultimately prevail on the merits of his claims. Moreover, the GD&CP defendants have not had an opportunity to respond to plaintiff’s allegations. Accordingly, **IT IS RECOMMENDED** that plaintiff’s motion for a preliminary injunction be **DENIED**.

Under 28 U.S.C. § 636(b)(1), **WITHIN FOURTEEN (14) DAYS** after being served a copy of this recommendation, plaintiff may serve and file written objections thereto directed to the district judge to whom this case is assigned.,

SO RECOMMENDED, this 21st day of SEPTEMBER, 2010.



A handwritten signature in blue ink that reads "Claude W. Hicks, Jr." The signature is fluid and cursive, with "Claude" and "W." being more stylized, and "Hicks, Jr." being more legible.

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE